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UNCLAS SECTION 01 OF 02 SANTO DOMINGO 003930

SIPDIS

DEPT FOR EB/IFD/OIA/JPROSELI, L/CID/JNICO;  
USDOC FOR 4322/ITA/MAC/WH/CARIBBEAN BASIN DIVISION  
USDOC FOR 3134/ITA/USFCS/RD/WH; TREASURY FOR M WAFER

E.O. 12958: N/A

TAGS: [CASC](#) [DR](#) [EFIN](#) [KIDE](#) [PGOV](#) [EINV](#)

SUBJECT: DOMINICAN REPUBLIC: 2005 INVESTMENT DISPUTES AND  
EXPROPRIATION CLAIMS REPORT

REF: A. 05 STATE 70014

[1](#)B. E-MAIL KENDRICK OR MEIGS/MCISAAC

[1](#)C. SEARBY

[1](#)1. This cable provides the 2005 Investment Disputes and  
Expropriation Claims Report for the Dominican Republic.

[1](#)2. The United States Government is presently aware of 18  
claims (including 5 new ones for 2005) by U.S.  
persons/entities against the Government of the Dominican  
Republic (GODR). There has been considerable progress in  
resolving the many of the cases that have languished for  
years. A USAID-sponsored consultant has been working with  
the Dominican Government to implement a system for evaluating  
and resolving claims through the use of bonds. In 1999, Law  
104-99 was passed, offering to claimants whose disputes arose  
on or before August 16, 1996, the option of circumventing the  
traditional method of claim resolution (at the "Bienes  
Nacionales"), and instead to seek compensation from a  
specially appointed Commission, provided the claimants are  
willing to accept payment in bonds.

[1](#)3. Action on resolution of claims stopped when the Fernandez  
administration took office in August, 2004. Office of Public  
Credit within the Ministry of Finance is responsible for  
expropriations and investment disputes; it has had four  
directors in less than a year. This high turnover rate with  
the change in administration has delayed consideration of  
claims. Embassy Santo Domingo sees no movement even now, 9  
months in the administration.

[1](#)4. The Embassy continues these expropriation and investor  
dispute cases with the Dominican Government on a regular  
basis, and all information provided herein was last updated  
in June 2005. Details of the new claims follow:

14.a) Claimant M (NEW 2005)

b) 1992

c) Claimant M owned 400 m2 of land bordering the road to  
the Santo Domingo Las Americas Airport, the land was  
expropriated by the Dominican Government in the 1990's for  
highway expansion. Claimant M's claim is being held up in  
the Ministry of Finance-Office of Engineering. In order for  
Claimant M to receive compensation, the Office of Engineering  
must evaluate the claim and then pass it to the Office of  
Public Credit for payment. The Office of Engineering has had  
the paperwork since April 2002. The Embassy contacted the  
Office of Engineering in June, 2005, asking the staff to look  
into the matter and pass the paperwork on to the Office of  
Public Credit for payment. The claim is worth around 400,000  
Dominican pesos or about 14, 000 USD. Note: Claimant M had a  
previous case involving an expropriation under similar  
circumstances that was settled in 2004.

15.a) Claimant N (NEW 2005)

b) 2003

c) Claimant N is involved in a contractual dispute with  
the Dominican Procuraduria General de la Republica (Attorney  
General) concerning a telephone system for Dominican prisons.  
(Note: this is a system similar to those used in U.S. Federal  
Bureau of Prisons.) Claimant N's company, in partnership  
with a California-based equipment maker, is having trouble  
activating the system in the prisons due to bureaucratic  
delay in the Dominican Procuraduria. His telephone equipment  
has already been installed in the central offices of the  
Procuraduria General and the Najayo, Puerto Plata and La  
Victoria prisons.

In 2004, when representatives Claimant N went to activate the  
equipment at the central office, they were informed they  
could not operate the equipment until they had a letter of  
authorization from the Procuraduria's office. Claimant N has  
invested over \$150,000 and is currently losing \$7,000 a month  
waiting for the Procuraduria to sign the appropriate letter.  
Claimant N signed a contract with the Dominican Government on  
Sept 4, 2003. A new presidential administration began on

August 16, 2004 and appears reluctant to honor the agreements of the previous administration. The Embassy has met with the Deputy Attorney General for Prisons the Dominican telecommunications regulating agency of behalf of Claimant N.

16. a) Claimant O (NEW 2005)

b) 2005

c.) On May 7, 2004, Claimant O and the company he represents signed a contract with the Dominican Government (Corporacion Dominicana de Empresas Estatales - CORDE) granting Claimant O the right to exploit a government-owned salt mine in the area of Las Salinas, Province of Barahona, for a period of 25 years. Claimant O alleges the Dominican Government is not honoring the contract and is denying his company access to the area. Claimant O has invested money in equipment and has made other investments including contractual payments and tax payments to the Dominican Government. The contract requires Claimant O to invest U.S. \$1.5 million in the mine over the first five years of the contract and then U.S. \$150,000 USD every year thereafter. Claimant O has been unsuccessful in his attempts to obtain meetings with government officials.

A new presidential administration began on August 16, 2004 and appears reluctant to honor the agreements of the previous administration. The Dominican Government has sent this contract to a newly established government ethics commission for review. The Embassy has contacted the Dominican Government's commission several times, as well as the General Director of Mining, to advocate on the behalf of Claimant O.

17. a) Claimant P (NEW 2005)

b) 2002

c.) Claimant P entered a contract with Unidad Corporativa Minera (UCM, a government-owned entity closed in 2004) to determine the economic viability of sulphate based gold reserves at the Pueblo Viejo mine. UCM contracted Claimant P to conduct an environmental study, fish assessment, tailings dam sitings and an overall technical review. The job was finished in June 2002, but UCM failed to pay Claimant P more than U.S. \$125,000. Embassy officials have been in contact with UCM and the Director General de Minería. Obtaining payment from the Dominican Government has been difficult in part because the UCM no longer exists and the changing of officials at the Office of Public Credit has slowed processing.

18. a) Claimant Q (NEW 2005)

b) 2002

c.) Claimant Q is currently involved in a legal dispute with the Anabalca Shipyard Company (50% owned by the Dominican Navy), the company he contracted to repair his tugboat. Anabalca is holding his tugboat as collateral for \$40,000 in repairs performed after the tugboat experienced transmission problems. Claimant Q claims Anabalca did not correct the transmission problem and he refuses to pay for the services Anabalca has provided. The case is currently before the Dominican Court of First Instance in Santo Domingo. Claimant Q's tugboat has been in the Port of Las Calderas, Province of Peravia, since June 2001. Embassy officials have raised this issue with the managers of the Anabalca Shipyard and the Dominican Armed Forces.

Claimant N:	Carlos Langa
Claimant O:	Gabelle Prison Telephones- Ruben Cerezo
Claimant P:	Pedro Antonio Martinez, Agregados del Lago, S.A
Claimant Q:	Pincock, Allen & Holt, subsidiary of
HartCrowser	
Claimant R:	Tugboat Linda W- Gene Martin

MEIGS